

**IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN
DISTRICT OF TENNESSEE**

E. R.

Plaintiff,

vs.

**Docket Number:
JURY DEMANDED**

**City of Memphis,
Shelby County,
Shelby County Sheriff's Department, Mark Lutrell,
J. Fleming MPD, R. Jenkins MPD, J. Graham MPD,
Robert Chalmers MPD, and
John and Jane Doe**

Defendants.

COMPLAINT

COMES NOW the Plaintiff, E. R., and sues the Defendants, City of Memphis, Shelby County, Shelby County Sheriff's Department, Mark Lutrell; J. Fleming, MPD; R. Jenkins, MPD; J. Graham, MPD; Robert Chalmers, MPD; and John and Jane Doe; for personal injury, damages and for action states:

1. Plaintiff, E. R. is an adult resident citizen of Memphis, Shelby County, Tennessee.

2. Defendant, City of Memphis, is a municipality of the State of Tennessee. Among its functions, the City operates and maintains a law enforcement division known as the Memphis Police Department. The purpose of the Memphis Police Department is to operate in a lawful manner so as to preserve the peace of the people within its boundaries and protect the rights, privileges and immunities guaranteed and secured to them by the Constitutions and the laws of the United States and the State of Tennessee.

3. Defendant, Shelby County, is a county located within the State of Tennessee. Among its functions, the County operates and maintains a law enforcement division known as the Shelby County Sheriff's Department. The purpose of the County's Sheriff's Department is to operate in a lawful manner so as to preserve the peace of the people within its boundaries and protect the rights, privileges and immunities guaranteed and secured to them by the Constitutions and the laws of the United States and the State of Tennessee.

4. Defendant, Mark Lutrell, is an adult citizen of Shelby County, Tennessee. At all times material hereto, Defendant Lutrell was Sheriff of the Shelby County. Defendant Lutrell is responsible for the day-to-day operation of the Sheriff's Department. Defendant Lutrell is sued in his official and individual capacity as Sheriff of the Shelby County, Tennessee.

5. Defendant, J. Fleming, is and was at all times relevant a police officer with the Memphis City Police Department assigned to patrol, acting under the color and pretense of State law and within the course and scope of his employment with the department.

6. Defendant, R. Jenkins, is and was at all times relevant a police officer with the Memphis City Police Department assigned to patrol, acting under the color and pretense of State law and within the course and scope of his employment with the department.

7. Defendant, Robert Chalmers, is and was at all times relevant a police officer with the Memphis City Police Department assigned to patrol, acting under the color and pretense of State law and within the course and scope of his employment.

8. Defendant, J. Graham, is and was at all times relevant a police officer with the Memphis City Police Department assigned to patrol, acting under the color and pretense of State law and within the course and scope of his employment.

9. Defendant, John and Jane Does' upon information and belief believed to be adult resident citizens of Memphis, Shelby County, Tennessee. At all times pertinent hereto, Defendant Does were duly appointed sheriff's deputies and /or personnel with the Shelby County Sheriff's Department, assigned to the fugitive squad and jail, acting under the color and pretense of state law and within the course and scope of their employment with the

Department. Defendant Does are sued individually and in their official capacities.

JURISDICTION

10. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §1331 and §1343, 42 U.S.C. § 1983 AND 142 U.S.C. § 1988 This Court also has pendent and supplemental jurisdiction claims against the Defendants as set forth below pursuant to 28 U.S.C. § 1367

11. All actions, omissions and events complained of took place in the County of Shelby, City of Memphis, and State of Tennessee and within one year of the date of the filing of this action.

12. Each and all of the acts or omissions of Defendants were done under the color and pretense of the State law and the Constitutions, statues, ordinances, regulations, customs and usages of the United States of America, the State of Tennessee, the City of Memphis, and under the authority of law.

FACTS

13. On or about June 9, 2007, at approximately 5 p.m. plaintiff was driving his automobile near College Street and I-240 in Memphis, Shelby County, Tennessee.

14. Plaintiff was stopped by Defendants Fleming and Jenkins for a violation of the seat belt law.

15. Plaintiff produced a valid Tennessee driver's photo Operator's License which indicated that his name was E. R. The license also indicated his correct date of birth.

16. Defendants Fleming and Jenkins ran a check for warrants on Plaintiff with dispatcher who indicated there was a warrant for a person with a similar name.

17. Plaintiff explained to defendants Fleming and Jenkins that the name of the person named in the warrant while similar to plaintiff's name was not plaintiff's name. Plaintiff further demonstrated to the officer that not only was his name different but also his date of birth as shown by his valid Tennessee operator's license.

18. Notwithstanding plaintiff's protest, defendants Fleming and Jenkins had plaintiff arrested and transported to the downtown jail at 201 Poplar Avenue which is controlled by defendant Shelby County and defendant, Shelby County Sheriff's Department.

19. Upon arrival at the jail, plaintiff once again explained to the jail employees of the defendants that he was not the man named in the warrant but that their names were similar.

20. At all times mentioned plaintiff produced to all defendants a valid Tennessee operator's license which showed his photograph, name, address, date of birth, and driver's license number.

21. Notwithstanding plaintiff's protest, defendant Shelby County booked plaintiff under the warrant and placed him in a jail cell.

22. Within an hour after being placed in the jail cell, plaintiff was savagely beaten and raped by prison inmates.

23. Plaintiff was 50 years of age, gainfully employed, and has never been arrested before.

24. Defendants released plaintiff from custody on June 10, 2007, and indicated that they had the wrong person.

INJURIES AND DAMAGES

25. Defendants knew or should have known of the violent conditions of the jail and propensities of the inmates. Defendants' conduct constituted deliberate indifference to inmate safety, a violation of due process pursuant to the U.S. and Tennessee Constitution, false arrest, false imprisonment and common law negligence.

26. As the direct and proximate result of the deliberate indifference, recklessness, negligence, and breach of duty to the Plaintiff, and violations of the U.S. Constitution, plaintiff has endured significant damages, complications and difficulties, permanent in nature, including, but not limited to: loss of income, great physical and mental pain and suffering, medical expenses, hospitalization, mental injury, psychological expenses, and all other damages recognized by the Laws of the State of Tennessee.

WHEREFORE, premises considered the plaintiffs, E. R. demand:

- a. That process issue and be served upon the Defendants and that they be required to answer in a timely manner or have the allegations herein be deemed admitted and a default judgment entered;
- b. That Plaintiff, E. R., be awarded compensatory damages in the amount of \$10,000.000. (Ten Million Dollars)
- c. That the Plaintiff be awarded punitive damages in the amount of \$ 5,000.000. (Five Million Dollars)
- d. That a jury be empanelled to try this cause.
- e. That the Plaintiff be awarded interest on all verdicts or recoveries and discretionary/ non-discretionary cost; and

- f. All other appropriate relief to which they may be entitled.

Respectfully submitted,

/s/ Glenn Wright
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